

104TH CONGRESS
1ST SESSION

H. R. 1975

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 1995

Mr. CALVERT (for himself, Mr. BREWSTER, Mr. DOOLEY, Mr. TAUZIN, and Mr. LUCAS) introduced the following bill; which was referred to the Committee on Resources

A BILL

To improve the management of royalties from Federal and Outer Continental Shelf oil and gas leases, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as “The
5 Federal Oil and Gas Royalty Simplification and Fairness
6 Act of 1995”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

- Sec. 3. Limitation periods.
- Sec. 4. Overpayments: offsets and refunds.
- Sec. 5. Required recordkeeping.
- Sec. 6. Royalty interest, penalties, and payments.
- Sec. 7. Limitation on assessments.
- Sec. 8. Cost-effective audit and collection requirements.
- Sec. 9. Elimination of notice requirement.
- Sec. 10. Royalty in kind.
- Sec. 11. Time and manner of royalty payment.
- Sec. 12. Repeals.
- Sec. 13. Indian lands.
- Sec. 14. Effective date.

1 **SEC. 2. DEFINITIONS.**

2 Section 3 of the Federal Oil and Gas Royalty Man-
 3 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amended
 4 as follows:

5 (1) In paragraph (5), by inserting “(including
 6 any unit agreement and communitization agree-
 7 ment)” after “agreement”.

8 (2) By amending paragraph (7) to read as fol-
 9 lows:

10 “(7) ‘lessee’ means any person to whom the
 11 United States issues a lease.”.

12 (3) By striking “and” at the end of paragraph
 13 (15), by striking the period at the end of paragraph
 14 (16) and inserting “; and”; and by adding at the
 15 end the following:

16 “(17) ‘administrative proceeding’ means any
 17 agency process for rulemaking, adjudication or li-
 18 censing, as defined in and governed by chapter 5 of
 19 title 5, United States Code (relating to administra-
 20 tive procedures);

1 “(18) ‘assessment’ means any fee or charge lev-
2 ied or imposed by the Secretary or the United States
3 other than—

4 “(A) the principal amount of any royalty,
5 minimum royalty, rental, bonus, net profit
6 share or proceed of sale;

7 “(B) any interest; and

8 “(C) any civil or criminal penalty;

9 “(19) ‘commence’ means—

10 “(A) with respect to a judicial proceeding,
11 the service of a complaint, petition, counter-
12 claim, cross-claim, or other pleading seeking af-
13 firmative relief or seeking offset or recoupment;

14 “(B) with respect to an administrative pro-
15 ceeding—

16 “(i) the receipt by a lessee of an order
17 to pay issued by the Secretary, or

18 “(ii) the receipt by the Secretary of a
19 written request or demand by a lessee, or
20 any person acting on behalf of a lessee
21 which asserts an obligation due the lessee;

22 “(20) ‘credit’ means the method by which an
23 overpayment is utilized to discharge, cancel, reduce
24 or offset an obligation in whole or in part;

1 “(21) ‘obligation’ means a duty of the Sec-
2 retary, the United States, or a lessee—

3 “(A) to deliver or take oil or gas in kind;

4 or

5 “(B) to pay, refund, credit or offset mon-
6 ies, including (but not limited to) a duty to cal-
7 culate, determine, report, pay, refund, credit or
8 offset—

9 “(i) the principal amount of any roy-
10 alty, minimum royalty, rental, bonus, net
11 profit share or proceed of sale;

12 “(ii) any interest;

13 “(iii) any penalty; or

14 “(iv) any assessment,

15 which arises from or relates to any lease admin-
16 istered by the Secretary for, or any mineral
17 leasing law related to, the exploration, produc-
18 tion and development of oil or gas on Federal
19 lands or the Outer Continental Shelf;

20 “(22) ‘offset’ means the act of applying an
21 overpayment (in whole or in part) against an obliga-
22 tion which has become due to discharge, cancel or
23 reduce the obligation;

24 “(23) ‘order to pay’ means a written order is-
25 sued by the Secretary or the United States which—

1 “(A) asserts a definite and quantified obli-
2 gation due the Secretary or the United States;
3 and

4 “(B) specifically identifies the obligation by
5 lease, production month and amount of such
6 obligation ordered to be paid, as well as the rea-
7 son or reasons such obligation is claimed to be
8 due,

9 but such term does not include any other commu-
10 nication by or on behalf of the Secretary or the
11 United States;

12 “(24) ‘overpayment’ means any payment (in-
13 cluding any estimated royalty payment) by a lessee
14 or by any person acting on behalf of a lessee in ex-
15 cess of an amount legally required to be paid on an
16 obligation;

17 “(25) ‘payment’ means satisfaction, in whole or
18 in part, of an obligation due the Secretary or the
19 United States;

20 “(26) ‘penalty’ means a statutorily authorized
21 civil fine levied or imposed by the Secretary or the
22 United States for a violation of this Act, a mineral
23 leasing law, or a term or provision of a lease admin-
24 istered by the Secretary;

1 “(27) ‘refund’ means the return of an overpay-
 2 ment by the Secretary or the United States by the
 3 drawing of funds from the United States Treasury;

4 “(28) ‘underpayment’ means any payment by a
 5 lessee or person acting on behalf of a lessee that is
 6 less than the amount legally required to be paid on
 7 an obligation; and

8 “(29) ‘United States’ means—

9 “(A) the United States Government and
 10 any department, agency, or instrumentality
 11 thereof, and

12 “(B) when such term is used in a geo-
 13 graphic sense, includes the several States, the
 14 District of Columbia, Puerto Rico, and the ter-
 15 ritories and possessions of the United States.”.

16 **SEC. 3. LIMITATION PERIODS.**

17 (a) IN GENERAL.—The Federal Oil and Gas Royalty
 18 Management Act of 1982 (30 U.S.C. 1701 et seq.) is
 19 amended by adding after section 114 the following new
 20 section:

21 **“SEC. 115. LIMITATION PERIODS.**

22 “(a) IN GENERAL.—

23 “(1) SIX-YEAR PERIOD.—A judicial or adminis-
 24 trative proceeding which arises from, or relates to,
 25 an obligation may not be commenced unless such

1 proceeding is commenced within 6 years from the
2 date on which such obligation becomes due.

3 “(2) LIMIT ON TOLLING OF LIMITATION PE-
4 RIOD.—The running of the limitation period under
5 paragraph (1) shall not be suspended or tolled by
6 any action of the United States or an officer or
7 agency thereof other than the commencement of a
8 judicial or administrative proceeding under para-
9 graph (1) or an agreement under paragraph (3).

10 “(3) FRAUD OR CONCEALMENT.—For the pur-
11 pose of computing the limitation period under para-
12 graph (1), there shall be excluded therefrom any pe-
13 riod during which there has been fraud or conceal-
14 ment by a lessee in an attempt to defeat or evade
15 payment of any such obligation.

16 “(4) REASONABLE PERIOD FOR PROVIDING IN-
17 FORMATION.—In seeking information on which to
18 base an order to pay, the Secretary shall afford the
19 lessee or person acting on behalf of the lessee a rea-
20 sonable period in which to provide such information
21 before the end of the period under paragraph (1).

22 “(b) FINAL AGENCY ACTION.—The Director of the
23 Minerals Management Service shall issue a final Director’s
24 decision in any administrative proceeding before the Direc-
25 tor within one year from the date such proceeding was

1 commenced. The Secretary shall issue a final agency deci-
2 sion in any administrative proceeding within 3 years from
3 the date such proceeding was commenced. If no such deci-
4 sion has been issued by the Director or Secretary within
5 the prescribed time periods referred to above:

6 “(1) the Director’s or Secretary’s decision, as
7 the case may be, shall be deemed issued and granted
8 in favor of the lessee or lessees as to any
9 nonmonetary obligation and any obligation the prin-
10 cipal amount of which is less than \$2,500; and

11 “(2) in the case of a monetary obligation the
12 principal amount of which is \$2,500 or more, the
13 Director’s or Secretary’s decision, as the case may
14 be, shall be deemed issued and final, and the lessee
15 shall have a right of de novo judicial review and ap-
16 peal of such final agency action.

17 “(c) TOLLING BY AGREEMENT.—Prior to the expira-
18 tion of any period of limitation under subsections (a) or
19 (c), the Secretary and a lessee may consent in writing to
20 extend such period as it relates to any obligation under
21 the mineral leasing laws. The period so agreed upon may
22 be extended by subsequent agreement or agreements in
23 writing made before the expiration of the period previously
24 agreed upon.

1 “(d) LIMITATION ON CERTAIN ACTIONS BY THE
2 UNITED STATES.—When an action on or enforcement of
3 an obligation under the mineral leasing laws is barred
4 under subsection (a) or (b), the United States or an officer
5 or agency thereof may not take any other or further action
6 regarding that obligation including (but not limited to) the
7 issuance of any order, request, demand or other commu-
8 nication seeking any document, accounting, determination,
9 calculation, recalculation, principal, interest, assessment,
10 penalty or the initiation, pursuit or completion of an audit.

11 “(e) OBLIGATION BECOMES DUE.—

12 “(1) IN GENERAL.—For purposes of subsection
13 (a), an obligation becomes due when the right to en-
14 force the obligation is fixed.

15 “(2) SPECIAL RULE REGARDING ROYALTY OBLI-
16 GATION.—The right to enforce any royalty obligation
17 is fixed for the purposes of this Act on the last day
18 of the calendar month following the month in which
19 oil or gas is produced, except that with respect to
20 any such royalty obligation which is altered by a ret-
21 roactive redetermination of working interest owner-
22 ship pursuant to a unit or communitization agree-
23 ment, the right to enforce such royalty obligation in
24 such amended unit or communitization agreement is
25 fixed for the purposes of this Act on the last day of

1 the calendar month in which such redetermination is
2 made. The Secretary shall issue any such redeter-
3 mination within 180 days of receipt of a request for
4 redetermination.

5 “(f) JUDICIAL REVIEW OF ADMINISTRATIVE PRO-
6 CEEDINGS.—In the event an administrative proceeding
7 subject to subsection (a) is timely commenced and there-
8 after the limitation period in subsection (a) lapses during
9 the pendency of the administrative proceeding, no party
10 to such administrative proceeding shall be barred by this
11 section from commencing a judicial proceeding challenging
12 the final agency action in such administrative proceeding
13 so long as such judicial proceeding is commenced within
14 90 days from receipt of notice of the final agency action.

15 “(g) IMPLEMENTATION OF FINAL DECISION.—In the
16 event a judicial or administrative proceeding subject to
17 subsection (a) is timely commenced and thereafter the lim-
18 itation period in subsection (a) lapses during the pendency
19 of such proceeding, any party to such proceeding shall not
20 be barred from taking such action as is required or nec-
21 essary to implement the final unappealable judicial or ad-
22 ministrative decision, including any action required or nec-
23 essary to implement such decision by the recovery or
24 recoupment of an underpayment or overpayment by means
25 of refund, credit or offset.

1 “(h) STAY OF PAYMENT OBLIGATION PENDING RE-
2 VIEW.—Any party ordered by the Secretary or the United
3 States to pay any obligation (including any interest, as-
4 sessment or penalty) shall be entitled to a stay of such
5 payment without bond or other surety pending administra-
6 tive or judicial review unless the Secretary demonstrates
7 that such party is or may become financially insolvent or
8 otherwise unable to pay the obligation, in which case the
9 Secretary may require a bond or other surety satisfactory
10 to cover the obligation.

11 “(i) INAPPLICABILITY OF THE OTHER STATUTES OF
12 LIMITATION.—The limitations set forth in sections 2401,
13 2415, 2416, and 2462 of title 28, United States Code,
14 section 42 of the Mineral Leasing Act (30 U.S.C. 226–
15 2), and section 3716 of title 31, United States Code, shall
16 not apply to any obligation to which this Act applies.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 in section 1 of such Act (30 U.S.C. 1701) is amended by
19 adding after the item relating to section 114 the following
20 new item:

“Sec. 115. Limitation period.”.

21 **SEC. 4. OVERPAYMENTS: OFFSETS AND REFUNDS.**

22 (a) IN GENERAL.—The Federal Oil and Gas Royalty
23 Management Act of 1982 (30 U.S.C. 1701 et seq.) is
24 amended by adding after section 111 the following new
25 section:

1 **“SEC. 111A. OVERPAYMENTS: OFFSETS AND REFUNDS.**

2 “(a) OFFSETS.—

3 “(1) MANNER.—For each reporting month, a
4 lessee or person acting on behalf of a lessee shall
5 offset all underpayments and overpayments made for
6 that reporting month for all leases within the same
7 royalty distribution category established under per-
8 manent indefinite appropriations.

9 “(2) OFFSET AGAINST OBLIGATIONS.—The net
10 overpayment resulting within each category from the
11 offsetting described in paragraph (1) may be offset
12 and credited against any obligation for current or
13 subsequent reporting months which have become due
14 on leases within the same royalty distribution cat-
15 egory.

16 “(3) PRIOR APPROVAL NOT REQUIRED.—The
17 offsetting or crediting of any overpayment, in whole
18 or part, shall not require the prior request to or ap-
19 proval by the Secretary.

20 “(4) EXCLUSION OF CERTAIN UNDER- AND
21 OVERPAYMENTS.—Any underpayment or overpay-
22 ment upon which an order has been issued which is
23 subject to appeal shall be excluded from the offset-
24 ting provisions of this section.

25 “(b) REFUNDS.—

1 “(1) IN GENERAL.—A refund request may be
2 made to the Secretary not before one year after the
3 subject reporting month. After such one-year period
4 and when a lessee or a person acting on behalf of
5 a lessee has made a net overpayment to the Sec-
6 retary or the United States and has offset or cred-
7 ited in accordance with subsection (a), the Secretary
8 shall, upon request, refund to such lessee or person
9 the net overpayment, with accumulated interest
10 thereon determined in accordance with section 111.
11 If for any reason, a lessee or person acting on behalf
12 of a lessee is no longer accruing obligations on any
13 lease within a category, then such lessee or person
14 may immediately file a request for a refund of any
15 net overpayment and accumulated interest.

16 “(2) REQUEST.—The request for refund is suf-
17 ficient if it—

18 “(A) is made in writing to the Secretary;

19 “(B) identifies the person entitled to such
20 refund;

21 “(C) provides the Secretary information
22 that reasonably enables the Secretary to iden-
23 tify the overpayment for which such refund is
24 sought.

1 “(3) TREATMENT AS WRITTEN REQUEST OR
2 DEMAND.—Service of a request for refund shall be
3 a ‘written request or demand’ sufficient to com-
4 mence an administrative proceeding.

5 “(4) PAYMENT BY SECRETARY OF THE TREAS-
6 URY.—The Secretary shall certify the amount of the
7 refund to be paid under paragraph (1) to the Sec-
8 retary of the Treasury who is authorized and di-
9 rected to make such refund.

10 “(5) PAYMENT PERIOD.—A refund under this
11 subsection shall be paid within 90 days of the date
12 on which the request for refund was received by the
13 Secretary.

14 “(c) LIMITATION ON OFFSETS AND REFUNDS.—

15 “(1) LIMITATION PERIOD FOR OFFSETS AND
16 REFUNDS.—Except as provided by paragraph (2), a
17 lessee or person acting on behalf of a lessee may not
18 offset or receive a refund of any overpayment which
19 arises from or relates to an obligation unless such
20 offset or refund request is initiated within six years
21 from the date on which the obligation which is the
22 subject of the overpayment became due.

23 “(2) EXCEPTION.—(A) For any overpayment
24 the recoupment of which (in whole or in part) by off-
25 set or refund, or both, may occur beyond the six-

1 year limitation period provided in paragraph (1),
2 where the issue of whether an overpayment occurred
3 has not been finally determined, or where
4 recoupment of the overpayment has not been accom-
5 plished within said six-year period, the lessee or per-
6 son acting on behalf of a lessee may preserve its
7 right to recover or recoup the overpayment beyond
8 the limitation period by filing a written notice of the
9 overpayment with the Secretary within the six-year
10 period.

11 “(B) Notice under subparagraph (A) shall be
12 sufficient if it—

13 “(i) identifies the person who made such
14 overpayment;

15 “(ii) asserts the obligation due the lessee
16 or person; and

17 “(iii) identifies the obligation by lease, pro-
18 duction month and amount, as well as the rea-
19 son or reasons such overpayment is due.

20 “(d) PROHIBITION AGAINST REDUCTION OF RE-
21 FUNDS OR OFFSETS.—In no event shall the Secretary di-
22 rectly or indirectly claim any amount or amounts against,
23 or reduce any offset or refund (or interest accrued there-
24 on) by, the amount of any obligation the enforcement of
25 which is barred by section 115.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1 of such Act (30 U.S.C. 1701) is amended by
3 adding after the item relating to section 111 the following
4 new item:

“Sec. 111A. Overpayments: offsets and refunds.”.

5 **SEC. 5. REQUIRED RECORDKEEPING.**

6 Section 103 of the Federal Oil and Gas Royalty Man-
7 agement Act of 1982 (30 U.S.C. 1713(b)) is amended by
8 adding at the end the following:

9 “(c) Records required by the Secretary for the pur-
10 pose of determining compliance with an applicable mineral
11 leasing law, lease provision, regulation or order with re-
12 spect to oil and gas leases from Federal lands or the Outer
13 Continental Shelf shall be maintained for six years after
14 an obligation becomes due unless the Secretary com-
15 mences a judicial or administrative proceeding with re-
16 spect to an obligation within the time period prescribed
17 by section 115 in which such records may be relevant. In
18 that event, the Secretary may direct the record holder to
19 maintain such records until the final nonappealable deci-
20 sion in such judicial or administrative proceeding is ren-
21 dered. Under no circumstance shall a record holder be re-
22 quired to maintain or produce any record covering a time
23 period for which a substantive claim with respect to an
24 obligation to which the record relates would be barred by
25 the applicable statute of limitation in section 115.”.

1 **SEC. 6. ROYALTY INTEREST, PENALTIES, AND PAYMENTS.**

2 (a) INTEREST CHARGED ON LATE PAYMENTS AND
3 UNDERPAYMENTS.—Section 111(a) of the Federal Oil
4 and Gas Royalty Management Act of 1982 (30 U.S.C.
5 1721(a)) is amended to read as follows:

6 “(a) In the case of oil and gas leases where royalty
7 payments are not received by the Secretary on the date
8 that such payments are due, or are less than the amount
9 due, the Secretary shall charge interest on a net late pay-
10 ment or underpayment at the rate published by the De-
11 partment of the Treasury as the Treasury Current Value
12 Of Funds Rate. The Secretary may waive or forego such
13 interest in whole or in part. In the case of a net
14 underpayment for a given reporting month, interest shall
15 be computed and charged only on the amount of the net
16 underpayment and not on the total amount due from the
17 date of the net underpayment. The net underpayment is
18 determined by offsetting in the same manner as required
19 under paragraphs (1) and (2) of section 111A(a). Interest
20 may only be billed by the Secretary for any net
21 underpayment not less than one year following the subject
22 reporting month.”.

23 (b) CHARGE ON LATE PAYMENT MADE BY THE SEC-
24 RETARY.—Section 111(b) of the Federal Oil and Gas Roy-
25 alty Management Act of 1982 (30 U.S.C. 1721(b)) is
26 amended to read as follows:

1 “(b) Any payment made by the Secretary to a State
2 under section 35 of the Mineral Leasing Act, and any
3 other payment made by the Secretary which is not paid
4 on the date required under such section 35, shall include
5 an interest charge computed at the rate published by the
6 Department of the Treasury as the Treasury Current
7 Value of Funds Rate. The Secretary shall not be required
8 to pay interest under this paragraph until collected or
9 when such interest has been waived or is otherwise not
10 collected. With respect to any obligation, the Secretary
11 may waive or forgo interest otherwise required under sec-
12 tion 3717 of title 31, United States Code.”.

13 (c) PERIOD.—Section 111(f) of the Federal Oil and
14 Gas Royalty Management Act of 1982 (30 U.S.C.
15 1721(f)) is amended to read as follows:

16 “(f) Unless waived or not collected pursuant to sub-
17 sections (a)(2) and (b)(2), interest shall be charged under
18 this section only for the number of days a payment is
19 late.”.

20 (d) LESSEE INTEREST.—Section 111 of the Federal
21 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
22 1721) is amended by adding the following after subsection
23 (g):

24 “(h) If a net overpayment, as determined by offset-
25 ting as required under section 111A(1) and (2) for a re-

1 porting month, interest shall be allowed and paid or cred-
2 ited on such net overpayment, with such interest to accrue
3 from the date such net overpayment was made, at the rate
4 published by the Department of the Treasury as the
5 Treasury Current Value of Funds Rate.”.

6 (e) PAYMENT EXCEPTION FOR MINIMAL PRODUC-
7 TION.—Section 111 of the Federal Oil and Gas Royalty
8 Management Act of 1982 (30 U.S.C. 1721) is amended
9 by adding the following after subsection (h):

10 “(i) For any well on a lease which produces on aver-
11 age less than 250 thousand cubic feet of gas per day or
12 25 barrels of oil per day, the royalty on the actual or allo-
13 cated lease production may be paid—

14 “(A) for a 12-month period, only based on ac-
15 tual production removed or sold from the lease; and

16 “(B) 6 months following such period, for addi-
17 tional production allocated to the lease during the
18 period.

19 No interest shall be allowed or accrued on any
20 underpayment resulting from this payment methodology
21 until the month following the applicable 12-month pe-
22 riod.”.

1 **SEC. 7. LIMITATION ON ASSESSMENTS.**

2 Section 111 of the Federal Oil and Gas Royalty Man-
3 agement Act of 1982 (30 U.S.C. 1721) is amended by
4 adding the following after subsection (i):

5 “(j) The Secretary may levy or impose an assessment
6 upon any person not to exceed \$250 for any reporting
7 month for the inaccurate reporting of information required
8 under subsection (k). No assessment may be levied or im-
9 posed upon any person for any underpayment, late pay-
10 ment, or estimated payment or for any erroneous or in-
11 complete royalty or production related report for informa-
12 tion not required by subsection (k) absent a showing of
13 gross negligence or willful misconduct.”.

14 **SEC. 8. COST-EFFECTIVE AUDIT AND COLLECTION RE-**
15 **QUIREMENTS.**

16 Section 101 of the Federal Oil and Gas Royalty Man-
17 agement Act of 1982 (30 U.S.C. 1701 et seq.) is amended
18 by adding the following after subsection (c):

19 “(d)(1) If the Secretary determines that the cost of
20 accounting for and collecting of any obligation due for any
21 oil or gas production exceeds or is likely to exceed the
22 amount of the obligation to be collected, the Secretary
23 shall waive such obligation.

24 “(2) The Secretary shall develop a lease level report-
25 ing and audit strategy which eliminates multiple or redun-
26 dant reporting of information.

1 “(3) In carrying out this section, for onshore produc-
2 tion from any well which is less than 250 thousand cubic
3 feet of gas per day or 25 barrels of oil per day, or for
4 offshore production for any well less than 1,500,000 cubic
5 feet of gas per day or 150 barrels of oil per day, the Sec-
6 retary shall only require the lessee to submit the informa-
7 tion described in section 111(k). For such onshore and
8 offshore production, the Secretary shall not conduct roy-
9 alty reporting compliance and enforcement activities, levy
10 or impose assessments described in such section 111(k)
11 and shall not bill for comparisons between royalty report-
12 ing and production information. The Secretary may only
13 conduct audits on such leases if the Secretary has reason
14 to believe that the lessee has not complied with payment
15 obligations for at least three months during a twelve
16 month period. The Secretary shall not perform such audit
17 if the Secretary determines that the cost of conducting the
18 audit exceeds or is likely to exceed the additional royalties
19 expected to be received as a result of such audit.”.

20 **SEC. 9. ELIMINATION OF NOTICE REQUIREMENT.**

21 Section 23(a)(2) of the Outer Continental Shelf
22 Lands Act (43 U.S.C. 1349(a)(2)) is amended to read as
23 follows:

24 “(2) Except as provided in paragraph (3) of this sub-
25 section, no action may be commenced under subsection

1 (a)(1) of this section if the Attorney General has com-
2 menced and is diligently prosecuting a civil action in a
3 court of the United States or a State with respect to such
4 matter, but in any such action in a court of the United
5 States any person having a legal interest which is or may
6 be adversely affected may intervene as a matter of right.”.

7 **SEC. 10. ROYALTY IN KIND.**

8 (a) IN GENERAL.—Section 27(a)(1) of the Outer
9 Continental Shelf Lands Act (43 U.S.C. 1353(a)(1)) and
10 the first undesignated paragraph of section 36 of the Min-
11 eral Leasing Act (30 U.S.C. 192) are each amended by
12 adding at the end the following: “Any royalty or net profit
13 share of oil or gas accruing to the United States under
14 any lease issued or maintained by the Secretary for the
15 exploration, production and development of oil and gas on
16 Federal lands or the Outer Continental Shelf, at the Sec-
17 retary’s option, may be taken in kind at or near the lease
18 upon 90 days prior written notice to the lessee. Once the
19 United States has commenced taking royalty in kind, it
20 shall continue to do so until 90 days after the Secretary
21 has provided written notice to the lessee that it will resume
22 taking royalty in value. Delivery of royalty in kind by the
23 lessee shall satisfy in full the lessee’s royalty obligation.
24 Once the oil or gas is delivered in kind, the lessee shall
25 not be subject to the reporting and recordkeeping require-

1 ments, including requirements under section 103, except
 2 for those reports and records necessary to verify the vol-
 3 ume of oil or gas produced and delivered prior to or at
 4 the point of delivery.”.

5 (b) SALE.—Section 27(c)(1) of the Outer Continental
 6 Shelf Lands Act (43 U.S.C. 1353(c)(1)) is amended by
 7 striking “competitive bidding for not more than its regu-
 8 lated price, or if no regulated price applies, not less than
 9 its fair market value” and inserting “competitive bidding
 10 or private sale”.

11 **SEC. 11. TIME, MANNER, AND INFORMATION REQUIRE-**
 12 **MENTS FOR ROYALTY PAYMENT AND RE-**
 13 **PORTING.**

14 Section 111 of the Federal Oil and Gas Royalty Man-
 15 agement Act of 1982 (30 U.S.C. 1721) is amended by
 16 adding the following after subsection (j):

17 “(k)(1) Any royalty payment on an obligation due the
 18 United States for oil or gas produced pursuant to an oil
 19 and gas lease administered by the Secretary shall be pay-
 20 able at the end of the month following the month in which
 21 oil or gas is removed or sold from such lease.

22 “(2) Royalty reporting with respect to any obligation
 23 shall be by lease and shall include only the following infor-
 24 mation:

25 “(A) identification of the lease;

1 “(B) product type;

2 “(C) volume (quantity) of such oil or gas pro-
3 duced;

4 “(D) quality of such oil or gas produced;

5 “(E) method of valuation and value, including
6 deductions; and

7 “(F) royalty due the United States.

8 “(3) Other than the reporting required under para-
9 graph (2), the Secretary shall not require additional re-
10 ports or information for production or royalty accounting,
11 including (but not limited to) information or reports on
12 allowances, payor information, selling arrangements, and
13 revenue source.

14 “(4) No assessment may be imposed on retroactive
15 adjustment with respect to royalty information made on
16 a net basis for reports described in paragraph (2).

17 “(5) The Secretary shall establish reporting thresh-
18 olds for de minimis production, which is defined as less
19 than 100 thousand cubic feet of gas per day or 10 barrels
20 of oil per day per lease. For such de minimis production,
21 the lessee shall report retroactive adjustments with the
22 current month royalty payment, and the Secretary shall
23 not bill for, or collect, comparisons to production, assess-
24 ments, or interest.

1 “(6) If the deadline for tendering a royalty payment
2 imposed by paragraph (1) cannot be met for one or more
3 leases, an estimated royalty payment in the approximate
4 amount of royalties that would otherwise be due may be
5 made by a lessee or person acting on behalf of a lessee
6 for such leases to avoid late payment interest charges.
7 When such estimated royalty payment is established, ac-
8 tual royalties become due at the end of the second month
9 following the month the production was removed or sold
10 for as long as the estimated balance exists. Such estimated
11 royalty payment may be carried forward and not reduced
12 by actual royalties paid. Any estimated balance may be
13 adjusted, recouped, or reinstated, at any time. The re-
14 quirements of paragraph (2) shall not apply to any esti-
15 mated royalty payment.”.

16 **SEC. 12. REPEALS.**

17 (a) FOGRMA.—Section 307 of the Federal Oil and
18 Gas Royalty Management Act of 1982 (30 U.S.C. 1755),
19 is repealed. Section 1 of such Act (relating to the table
20 of contents) is amended by striking out the item relating
21 to section 307.

22 (b) OCSLA.—Effective on the date of the enactment
23 of this Act, section 10 of the Outer Continental Shelf
24 Lands Act (43 U.S.C. 1339) is repealed.

1 **SEC. 13. INDIAN LANDS.**

2 The amendments made by this Act shall not apply
3 with respect to Indian lands, and the provisions of the
4 Federal Oil and Gas Royalty Management Act of 1982
5 as in effect on the day before the date of enactment of
6 this Act shall apply after such date only with respect to
7 Indian lands.

8 **SEC. 14. EFFECTIVE DATE.**

9 This Act, and the amendments made by this Act,
10 shall take effect on the date of the enactment of this Act
11 with respect to any obligation which becomes due on or
12 after such date of enactment.

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